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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/604,471 | 07/23/2003 | Robert Duncan Doverspike | 2002-0154 | 1470 |
| 26652 | 7590 | 09/10/2007 | EXAMINER | |
| AT&T CORP. ROOM 2A207 ONE AT&T WAY BEDMINSTER, NJ 07921 | | | NGUYEN, DUSTIN | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/604,471 | DOVERSPIKE ET AL. | |
| | Examiner | Art Unit | |
| | Dustin Nguyen | 2154 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 June 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims.

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

1. Claims 1 – 16 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 06/25/2007 have been fully considered but they are not persuasive.
3. As per remarks, Applicants' argued that (1) Charny fails to teach or suggest a switching device or a method for providing connectivity through a re-configurable transport network to a spare interface on a second router in an IP network.
4. As to point (1), Charny discloses a system and method including M backup tunnels used to protect N parallel paths all of which can fail simultaneously [col 1, lines 53-65; and col 2, lines 21-33]. The system of Charny discloses a network includes multiple IP routers connected together [200, Figure 2; and col 3, lines 46-57]. As shown in Figures 3 and 5 of Charny reference, router A connects to router C by using primary paths [302, Figure 3; and 502-506, Figure 5] which include multiple LSPs and the system of Charny provides multiple backup tunnels for connecting routers A and C in case the primary paths fail [304-308, Figure 3; 508, 510, Figure 5; Abstract; and col 6, lines 1-14 and lines 50-56], wherein the backup tunnels can be increased by allocating additional bandwidth or establish new backup tunnels [i.e. providing

connectivity through a re-configurable transport network to a spare interface on a second router]

[Abstract; col 2, lines 36-39; col 8, lines 16-23; and col 9, lines 26-28 and lines 47-50].

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., spare interfaces can be connected via a re-configurable transport network (RTN) to form new links at the IP layer as needed and then returned to their inactive, unconfigured state when no longer needed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-3, 7-9, and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Charny et al. [US Patent No 6,778,492].

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8. As per claim 1, Charny discloses the invention as claimed including a method of operating an internet protocol (IP) network comprising a plurality of routers [i.e. IP routers] [Figure 2; and col 3, lines 46-57], each router further comprising a plurality of interfaces [i.e. plurality of network interfaces] [Figure 1; and col 8, lines 53-64], the method comprising the steps of:

connecting a spare interface on a first router in the IP network to a re-configurable transport network which provides connectivity to a spare interface on a second router in the IP network [i.e. backup tunnels connect between routers] [304-308, Figure 3; 416, Figure 4; 508, 510, Figure 5; and col lines 1-56];

upon detection of a pre-designated condition in the IP network [i.e. upon failure detect] [col 4, lines 27-30; and col 8, lines 9-15], switching traffic designated for a primary interface at the first router to the spare interface at the first router in the IP network [i.e. redirect to the backup tunnels] [col 4, lines 30-33], thereby causing the traffic to flow across spare capacity on the re-configurable transport network between the spare interface on the first router and the spare interface on the second router in the IP network [i.e. traverse or forward through the backup tunnel] [col 4, lines 33-44 and lines 44-46].

9. As per claim 2, Charny discloses wherein the pre-designated condition is a failure in the primary interface at the first router in the IP network [i.e. primary LSP traversing the failed element] [col 4, lines 30-33].

10. As per claim 3, Charny discloses wherein the primary interface provided connectivity to the re-configurable transport network before failure [col 6, lines 23-26] and wherein the spare interface provides 1:N interface protection [i.e. single backup tunnel] [Figure 4; and col 6, lines 31-42].

11. As per claim 7, it is rejected for similar reasons as stated above in claim 1. Furthermore, Charny discloses reconfiguring the routing table in the router [col 3, lines 51-57].

12. As per claims 8 and 9, they are rejected for similar reasons as stated above in claims 2 and 3.

13. As per claim 12, it is rejected for similar reasons as stated above in claim 7.

14. As per claims 13 and 14, they are rejected for similar reasons as stated above in claims 2 and 3.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 4-6, 10, 11, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Charny et al. [US Patent No 6,778,492], in view of Wing So [US Patent Application No 2002/0109879].

17. As per claim 4, Charny discloses wherein the spare interface provides dynamic establishment of a new IP link in response to the failure [i.e. establish a new backup tunnel] [Abstract; col 1, lines 44-46; and col 2, lines 36-38]. Charny does not specifically disclose wherein the primary interface provided connectivity over a direct point-to-point link. Wing So discloses wherein the primary interface provided connectivity over a direct point-to-point link [paragraphs 0070, 0290 and 0347]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Charny and Wing So because the teaching of Wing So would provide a method and system to configure and control optical communication networks that provides flexibility for the future while supporting legacy systems and components [Wing So, paragraphs 0001 and 0005].

18. As per claim 5, Charny does not specifically disclose wherein the pre-designated condition is a surge in traffic across the primary interface at the first router in the IP network. Wing So discloses wherein the pre-designated condition is a surge in traffic across the primary interface at the first router in the IP network [i.e. busting of traffic] [paragraphs 0873 and 0993]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Charny and Wing So because the teaching of Wing So would provide a method and system to configure and control optical communication networks that

provides flexibility for the future while supporting legacy systems and components [Wing So, paragraphs 0001 and 0005].

19. As per claim 6, Charny does not specifically disclose wherein the re-configurable transport network comprises a plurality of optical cross-connects. Wing So discloses wherein the re-configurable transport network comprises a plurality of optical cross-connects [i.e. OXC] [paragraphs 0073 and 0076]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Charny and Wing So because the teaching of Wing So would provide a method and system to configure and control optical communication networks that provides flexibility for the future while supporting legacy systems and components [Wing So, paragraphs 0001 and 0005].

20. As per claims 10 and 15, they are rejected for similar reasons as stated above in claim 4.

21. As per claims 11 and 16, they are rejected for similar reasons as stated above in claim 5.

22. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached at (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

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